

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 01-244
(Judge Charles W. Cope)

Case No. SC01-2670

/

SPECIAL COUNSEL'S MOTION

TO SET FOR HEARING AND RESPONSE TO RESPONDENT'S

MOTION TO REOPEN DISCOVERY AND FOR PROTECTIVE ORDER

The Special Counsel hereby moves the Hearing Panel to set this cause for final hearing and responds to the Respondent's Motion to Reopen Discovery and for Protective Order and states:

1. Now that the parties in California have agreed to continue the criminal proceedings to allow these proceedings to move forward, the Special Counsel joins Respondent in his request to lift the stay of discovery in this case.

2. Other than joining the request to lift the stay, the Special Counsel does not join the rest of Respondent's motion. For the record, the Special Counsel denies the immaterial, impertinent, and scandalous allegations contained therein, but otherwise declines to dignify them with a response.

3. The Special Counsel respectfully submits that these proceedings should move forward as quickly as consistent with the Respondent's right to adequate time to prepare a defense and the Special Counsel's right to conduct discovery. The

Respondent is on a paid leave of absence from the bench pending the proceedings before the Hearing Panel. Now that the Respondent has successfully obtained a three-month continuance of the criminal trial, a continued stay of discovery pending the criminal trial would place an undue burden on the fiscal resources and personnel needs of the circuit court.

4. Out of respect for the stipulation between Respondent and the State of California to postpone the criminal trial from February 25, 2002, to May 13, 2002, to allow these proceedings to move forward, the hearing in this case should be set for no later than April 29, 2002.

5. The Special Counsel anticipates needing at least thirty days after taking Respondent's deposition to prepare for the final hearing.

6. The Special Counsel anticipates that he will need at least two days to present his case-in-chief and, depending on Respondent's defense, up to one additional day to present rebuttal testimony. The Special Counsel estimates that a total of six days should be sufficient for the final hearing.

7. The Special Counsel takes no position with regard to the order of the depositions of Respondent and the two victims, so long as the Respondent submits to a deposition at least thirty (30) days prior to the final hearing.

WHEREFORE, the Special Counsel respectfully moves for an order setting this

case for final hearing and lifting the stay of discovery.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and regular U.S. mail to: **Louis Kwall, Esq.**, Kwall, Showers & Coleman, P.A., 133 N. St. Harrison Ave., Clearwater, Florida 33755; **Robert W. Merkle, Jr., Esq.**, Co-Counsel for Respondent, 5510 W. La Salle Street, #300, Tampa, Florida 33607-1713; **Judge James R. Jorgenson**, Chair of the Judicial Qualifications Commission Hearing Panel, 3rd District Court of Appeal, 2001 S.W. 117th Ave., Miami, Florida 33175-1716; **John Beranek, Esq.**, Counsel to the Hearing Panel of the Judicial Qualifications Commission, P.O. Box 391, Tallahassee, Florida 32301; **Brooke S. Kennerly**, Executive Director of the Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; **Thomas C. MacDonald, Jr., Esq.**, General Counsel to the Investigative Panel of the Judicial Qualifications Commission, 100 North Tampa Street, Suite 2100, Tampa, Florida 33602 this 1st day of February, 2002.

By:

John S. Mills, Esq.

Florida Bar No. 0107719

Special Counsel

Florida Judicial Qualifications Commission

Foley & Lardner

200 Laura Street

Jacksonville, Florida 32201-0240

(904) 359-2000 Telephone

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